



May 2, 2022

VIA ECF AND EMAIL

Hon. Denise L. Cote, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street, Room 1910
New York, NY 10007

*Granted.
Denise Cote
5/3/22*

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Re: *605 Fifth Property Owner, LLC v. Abasic, S.A.* (21-cv-00811 DLC)
LETTER MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL

Dear Judge Cote:

We represent the Defendant, ABASIC, S.A. (“ABASIC”) in the above-referenced action. Pursuant to Fed. R. Civ. P. 5.2 and Section 8(b) of Your Honor’s Individual Practices in Civil Cases, ABASIC respectfully moves this Court for an order permitting ABASIC to publicly file redacted copies and to file under seal unredacted copies of (i) ABASIC’s Memorandum of Law in Support of Motion for a Stay of Execution Pending Appeal Pursuant to Fed. R. Civ. P. Rule 62(D) (the “Memorandum”), and (ii) the Declaration of Jaume Auladell Mestre in Support of ABASIC’s Motion for a Stay of Execution Pending Appeal Pursuant to Fed. R. Civ. P. 62(D) (the “Declaration”). Each of the documents in question includes highly sensitive and confidential data about ABASIC’s current cash liquidity. ABASIC seeks leave to redact these confidential financial figures from the Memorandum and the Declaration.

While there is a presumptive right of public access to judicial documents, district courts within the Second Circuit regularly grant requests to redact or seal documents that pertain to confidential or proprietary business information. *See, e.g., Playtex Prods., LLC v. Munchkin, Inc.*, No. 14 Civ. 1308, 2016 WL 1276450, at *11-12 (S.D.N.Y. Mar. 29, 2016) (granting request to redact portions of summary judgment brief which referenced “confidential and sensitive business information, including sales and costs information, presentations, merger discussions, and competitive analyses and product testing”); *Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015) (permitting narrowly tailored redactions of “confidential business information”).

The confidential cash liquidity figures that ABASIC seeks leave to redact are the sort of material, non-public, and sensitive business information that courts in this District regularly allow to be filed under seal. *See, e.g., Hanks v. Voya Retirement Ins. and Annuity Co.*, 16-cv-6399, 2021 WL 2451981 at *3 (S.D.N.Y. June 16, 2021) (granting request to redact “sensitive business information, such as . . . specific financial metrics”); *Id.* at *2 (“Commercial competitors seeking



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an advantage over rivals need not be indulged in the name of monitoring the courts. . . .") (citations and quotations omitted).

While ABASIC's current liquidity figures are relevant to ABASIC's Motion for a Stay of Execution Pending Appeal, these figures are otherwise irrelevant to the proceedings in this action, which have largely concluded. By contrast, ABASIC has a strong interest in keeping such confidential information private, as it directly bears upon the operation of its business and would provide an unfair advantage to its competitors if publicly disclosed. Thus, the balance between presumptive public access and prejudice to ABASIC weighs heavily in favor of permitting ABASIC's request to redact and file under seal.

Furthermore, the proposed redactions are narrowly tailored, as ABASIC's proposed redactions are limited solely to the confidential revenue and liquidity figures, *i.e.*, the actual numbers themselves. These narrowly tailored redactions will protect ABASIC's confidential information, while not unduly interfering with the public's presumptive right of access to non-confidential documents.

For all of the foregoing reasons, ABASIC respectfully requests that the Court enter an order permitting ABASIC's proposed redactions, and granting ABASIC's request to file unredacted versions of the Memorandum and the Declaration under seal.

Respectfully submitted,

s/ Eric Roman
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